

TAB

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of Trademark Registration No.  
For the mark  
Date registered

2551269  
911.NET  
March 19, 2002

A.J. BOGGS & COMPANY,  
Petitioner

V.

GENERAL ELECTRIC CAPITAL CORPORATION,  
Registrant

CANCELLATION NO. \_\_\_\_\_

04-19-2002  
U.S. Patent & TMO/TM Mail Rcpt Dt. #58

**PETITION TO CANCEL**

U.S. PATENT & TRADEMARK OFFICE  
WASHINGTON, DC 20503

2002-03-19

A.J. Boggs & Company  
A Michigan Corporation  
4265 Okemos Rd. Suite D,  
Okemos, MI 48864

To the best of Petitioner's knowledge, the name and address of the current owner of the registration are: General Electric Capital Corporation, 2325 Lakeview Parkway Suite 700, Alpharetta, GA 30004.

The Petitioner, A.J. Boggs & Company, believes that it will be damaged by the above-identified registration, and hereby petitions to cancel the same.

The grounds for cancellation are as follows:

1. Petitioner owns the domain name "911.net".
2. Petitioner has applied to register the mark 911.NET (Serial Number 78/078405 filed on August 9, 2001) for internet-based information security services, namely, providing secure transaction, authentication, registration, identification, virtual private network, encryption, data transport and storage, and verification services; security monitoring services for physical facilities, computer equipment, and computer networks; computer security applications, infrastructure, and operations support services, and monitoring services for compliance with household and enterprise policies, events procedures, and

applicable regulatory standards in the field of online computerized information services in International Class 42.

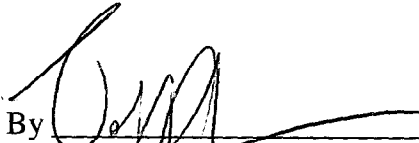
3. Petitioner first used the mark May 16, 1996 and first used the mark in commerce on October 23, 2000.
4. On January 19, 2000, Registrant filed an application to register the mark 911.NET for communication services, namely telephone, wireless, and global computer network communications for identifying and notifying a designated population of an impending emergency situation; communication services, namely, electronic communication and information systems that facilitate access to and use of emergency information by emergency administration personnel, public service access providers, public safety agencies, and commercial firms providing emergency services; telecommunications gateway services, namely, computerized 911 support, coordination, call generation and voice messaging in International Class 38.
5. Registrant alleges that it first used the mark and first used the mark in commerce on November 15, 2001, but does not explain how this could be accomplished.
6. The Examining Attorney assigned to Registrant's pending application (the 911.NET mark) has advised Petitioner that Registrant's mark may be cited against Petitioner's mark.
7. If the Examining Attorney determines that a likelihood of confusion exists between Petitioner's mark and Registrant's mark, then Petitioner will be damaged by the registration of Registrant's mark.
8. In such event, Registrant's use of the mark would likely be deceptive to the public and apparently the Trademark Office Examiner as to the source and origin of Registrant's goods and as to the existence of any association, connection, sponsorship, or relationship between Petitioner and Registrant.
9. By reason that Petitioner's mark was first used prior to Registrant's filing of their application, Petitioner has rights in its mark superior to Registrant's rights.
10. In addition, because Registrant filed its application as an Intent to Use application and then amended it to show use in November of 2001, which was subsequent to the date on which Petitioner filed its Use Based application (August 9, 2001), and after Petitioner's first use in commerce (October 23, 2000), Petitioner has priority to the rights in the mark.

11. Finally, Registrant knew of Petitioner's use of the mark prior to filing its Intent to Use Application, since Petitioner had been involved in litigation in Colorado with SCC Communication (related to General Electric Capital Corporation) involving the identical mark used in the same way and for the similar goods and services that the Registrant claimed its registration covers. Therefore, Registrant knew or should have known of the prior use of the mark by Petitioner, A.J. Boggs & Company. On information and belief, this was done with the intent to induce authorized agents of the US. Patent and Trademark Office to grant said registration and is fraudulent. This has damaged Petitioner in having to pursue this cancellation and also otherwise, since it has used the mark at issue as early as 1996.
12. Petitioner's continued use of said mark is being and will be impaired by the continued viability of the Registration of Registrant at issue regarding 911.NET.
13. Registration of the mark 911.NET on the Supplemental Register has interfered and will continue to interfere with Petitioner's full enjoyment of its rights in its 911.NET mark and will result in substantial detriment to Petitioner.

Wherefore, Petitioner believes that it would be damaged by said Registration and prays that it be cancelled.

Two copies of this Notice of Cancellation and the fee in the amount of \$300 required are enclosed herewith.

Dated: April 19, 2002

By   
Jeffrey A. Sadowski, Esq.  
Arthur O Rogers II, Esq.  
HOWARD & HOWARD ATTORNEYS, PC  
Attorneys for Petitioner  
A.J. Boggs & Company

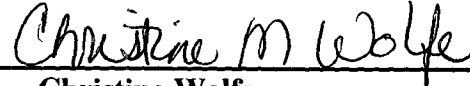
Trademark Registration No. 2551269

Date Registered: March 19, 2002

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**CERTIFICATE OF EXPRESS MAILING**

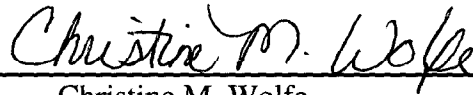
I hereby certify that this **Notice of Cancellation** and two copies of the foregoing Notice of Cancellation and the appropriate filing fee are being deposited with the United States Postal Service as Express Mail, postage prepaid, in an envelope as Express Mail Post Office to Addressee, Mailing Label No. EV059731098US and addressed to the Commissioner for Trademarks, Box TTAB - Fee, 2900 Crystal Drive, Arlington, Virginia 22202-3513, on April 19, 2002.

A handwritten signature in cursive script, reading "Christine M Wolfe", written over a horizontal line.

Christine Wolfe

**CERTIFICATE OF EXPRESS MAILING**

I hereby certify that the enclosed paper or fee is being deposited with the United States Postal Service as Express Mail, postage prepaid, in an envelope as "Express Mail Post Office to Addressee", Mailing Label No. **EV059731098US** and addressed to the Assistant Commissioner of Patents, **BOX TTAB - FEE**, Washington, D. C. 20231, on **April 19, 2002**.

A handwritten signature in cursive script, reading "Christine M. Wolfe", written over a horizontal line.

Christine M. Wolfe